MINUTES
SENATE FINANCE COMMITTEE
May 10, 2004
9:51 AM

TAPES

SFC-04 # 114, Side A
SFC 04 # 114, Side B
SFC 04 # 115, Side A

CALL TO ORDER

Co-Chair Gary Wilken convened the meeting at approximately 9:51 AM.

PRESENT

Senator Gary Wilken, Co-Chair
Senator Lyda Green, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Ben Stevens
Senator Donny Olson

Also Attending: SENATOR SCOTT OGAN; REPRESENTATIVE CARL GATTO; REPRESENTATIVE HUGH FATE; REPRESENTATIVE JIM HOLM; CINDY CASHEN, Executive Director, Mothers Against Drunk Driving; DON SMITH, Administrator, Alaska Highway Safety Office; JIM POUND, Staff to Representative Bud Fate; TIM BARRY, Staff to Representative Bill Williams; RYAN MCKINSTER, Staff to Representative Lesil McGuire; MATT RUDIG, Staff to Representative Jim Holm; PAUL FUHS, Representative, Alaska Trademark Shellfish Industry

Attending via Teleconference: From an Offnet Site: NANCY WELCH, Special Assistant, Office of the Commissioner, Department of Natural Resources

SUMMARY INFORMATION

HB 342-DRIVING UNDER INFLUENCE/ALCOHOL OFFENSES

The Committee heard from the bill's sponsor and took public testimony. The bill reported from Committee.

HB 319-REC.CABIN SITES/ LOTTERY SALE/RTS. RESERV

The Committee heard from the sponsor and the Department of Natural Resources. One amendment was withdrawn from consideration, one amendment-to-an-amendment failed to be adopted, and two amendments were adopted. A committee substitute was reported from Committee.

HB 495-4 DAM POOL JOINT ACTION AGENCY

The Committee heard from the sponsor and adopted one amendment. The bill was reported from Committee.

HB 338-ATTENDANCE AT PUBLIC SCHOOL

The Committee heard from the sponsor and reported the bill from Committee.

HB 341-DIVE FISHERY MANAGEMENT ASSESSMENT

The Committee heard from the sponsor and the industry. Previous action on the adoption of a committee substitute was rescinded, and the original version of the bill was reported from Committee.

HB 461-EMERGENCY SERVICES DISPATCH/911 SURCHARGE

The Committee heard from the sponsor. One amendment was offered but withdrawn from consideration. The bill was held in Committee.

HB 552-GAMBLING & GAMING

This bill was scheduled but not heard.

#hb342

> CS FOR HOUSE BILL NO. 342(FIN) am
> "An Act relating to driving while under the influence, to the definition of 'previously convicted,' to alcohol-related offenses, to ignition interlock devices, and to the issuance of limited driver's licenses; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken noted that this bill would strengthen the consequences of Driving Under the Influence (DUI) and would provide Wellness and Therapeutic Courts more authority. He pointed out the CS HB 342(FIN) am, Version 23-LS1292\W.A and its accompanying fiscal notes are before the Committee.

CINDY CASHEN, Executive Director, Juneau Chapter, Mothers Against Drunk Driving (MADD), spoke in favor of the legislation as "that ignition interlock systems will be one of the tools in the toolbox to prevent drunk driving." She testified that studies conducted in Maryland, California, and Canada indicate that 50 to 90-percent of offenders who were sentenced to using a ignition interlock device "did not drive drunk two years after their license was given back to them." She stressed that this device is effective and that the states utilizing the device in their DUI sentencing like it. She noted that the cost of the interlock device is less than the $1,500 fine imposed for a first DUI offense. She also noted that a judge has the authority to levy a fine above $1,500, depending upon the offender's blood alcohol content (BAC) level.

DON SMITH, Administrator, Alaska Highway Safety Office, spoke in favor of the bill. He noted that because legislation such as this have not been enacted, Alaska's highways have been ineligible, for the past several years, to receive approximately $1.5 million of federal highway concrete funding that is available to support highway construction projects. However, he clarified that while this money could not be allocated to support State highway construction projects, as intended, "it has not been lost" as it was transferred to support highway safety projects. In conclusion, he noted that this legislation "is a high priority with the national highway transportation safety committee."

REPRESENTATIVE CARL GATTO, the bill's sponsor, informed the Committee that ignition interlock devices have a good performance record. He shared that numerous methods including incarcerating people who have been convicted of DUI; levying hefty fines; or a combination of both, have had limited success in discouraging drinking and driving. He noted that upon review of other states' approaches to this situation, it was determined that use of an ignition interlock device was a factor in those having success in this regard. He reviewed that while this type of legislation had been entertained in the past, some of the detriments were the lack of a device operator in the State and the quality of the devices available at the time. Now however, he continued, in addition to a certified vendor being available, technological advances have improved the durability and quality of the devices to such things as cold weather and pampering. He asked the Committee to support this legislation in order to assist in keeping drunk drivers from operating vehicles.

Senator Bunde moved to report the bill from Committee with individual recommendations and accompanying fiscal notes. He noted that other [unspecified] legislation is being advanced that would

result in an increase in federal highway funding.

There being no objection, CS HB 342(FIN)am was REPORTED from Committee with previous zero fiscal note #1 from the Court System dated January 29, 2004; zero fiscal note #2 from the Department of Law, dated February 13, 2004; zero fiscal note #3 from the Department of Public Safety dated February 2, 2004; indeterminate fiscal note #5 from the Department of Corrections dated February 2, 2004; indeterminate fiscal note #6 from the Public Defender Agency, Department of Administration; and a new fiscal note in the amount of $215,000 dated May 10, 2004 from the Division of Motor Vehicles, Department of Administration.

#hb319

SENATE CS FOR CS FOR HOUSE BILL NO. 319(RES)
"An Act relating to the disposal of state land by lottery; relating to the reservation of rights by the state in land contracts and deeds; relating to the disposal, including sale or lease, of remote recreational cabin sites; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated that this bill would establish a public nomination lottery process through which remote cabin sites could be sold. He noted that the bill's sponsor, Representative Hugh Fate, has voiced concern in regard to some changes made in the Senate Resources committee substitute, SCS CS HB 319(RES), Version 23-LS0477\B, that is before the Committee. He stated that, in addition to fiscal notes #4 and #5 that pertain to Version "B," Members' packets include fiscal notes #2 and #3 that would apply were a forthcoming amendment adopted. He remarked that this is a "controversial" bill.

REPRESENTATIVE HUGH FATE, the bill's sponsor, stated that this bill evolved from "a simple concept" of developing a method through which people could select State land, have it surveyed and privately appraised at their own expense or appraised by the State under a reimbursement arrangement, and subsequently be granted fee simple title. Continuing, he noted that while the concept was simple, the details of the process became complex, and that it has taken four years to reach this point.

Representative Fate characterized the bill as a land acquisition bill that has no intent of furthering subsurface mineral

development issues such as those that have recently occurred in the Matanuska Susitna (Mat-Su) Borough as he recalled, at one point, the bill contained language that would have allowed the Commissioner of the Department of Natural Resources to withdraw from consideration land with high mineral content, including gas and oil. He declared that the regulations associated with this land selection legislation are "very strict."

Representative Fate reiterated "that the very core of the legislation" is to provide individuals the ability to nominate a piece of State land that he or she wishes to purchase. He clarified that, at any point in the process, the Commissioner could withdraw the land from consideration.

Representative Fate reminded the Committee that currently the only method through which individuals could acquire State land is through a lottery or auction process. He shared that approximately 40-percent of State land that is available through the lottery method is acquired and that the remaining land selections, as well as those acquired but repossessed by the State due to lack of payment, are disposed of over-the-counter. He argued "that very seldom is an individual able to" acquire land of their choosing under the current land disposal methods. This, he declared, is the reason this legislation is being brought forward. He stated that were this legislation enacted, it "would be a very popular program." He shared that the House bill, CS HB 319(FIN) am, Version 23-LS0477\X.A, that was transmitted to the Senate for consideration would have required general funds to support start-up expenses in the first few years, but that, beginning with the fourth year, the program would have generated money for the State. He also noted that Version "X.A" would require the creation of eight new positions.

Representative Fate informed the Committee that the Version "B" committee substitute would require lower start-up costs, would not require an increase in personnel, and would, like Version "X.A," generate funds for the State. However, he communicated that he does not support Version "B" as it changes the concept of the legislation and would probably "meld" the program into a lottery program, which, he declared "would be disheartening" as it would not allow people to select land.

Co-Chair Wilken asked for further information regarding how the bill's language was changed in Version "B," specifically language in Section 4, subsection (f) on page three, beginning on line 24.

> (f) A resident may nominate a parcel for disposal under this section. The commissioner shall review the nomination and may

(1) offer the nominated parcel for sale;
(2) offer additional parcels within the surrounding area for sale; or
(3) find that the parcel or area is not appropriate for disposal.

JIM POUND, Staff to Representative Fate, expounded that Section 4, subsection (f) of Version "B" would allow the Department of Natural Resources to convert the program into a lottery. Continuing, he noted that as in Version "W.A", an individual could nominate a specific parcel; however, contrary to Version "W.A", once the Commissioner approved the land for nomination, the person who nominated the land would, rather than being able to pursuing purchasing that land, would be placed on equal footing with any other person who might become interested in that parcel of land.

Mr. Pound voiced that many Alaskans would be interested in acquiring land through the land nomination program and that, were an individual to seek out and nominate a specific parcel, there would be the "assumption that they have a prerogative to that parcel." He warned that the language proposed in the Version "B" committee substitute could be costly to the State as were someone to nominate a parcel and not be awarded it, they could argue that they have an assumption of prerogative.

Co-Chair Wilken understood therefore, that the language in this section is the difference between the House bill Version "W.A," and the Senate Resources bill, Version "B".

Senator Dyson observed that the language in Section 4, subsection (f) of Version "B" continues the original goal of the legislation, as, he contended, it would allow a person to select land which the Commissioner could nominate for sale.

Mr. Pound affirmed; however, he explained that while both versions of the bill would allow a person to nominate a parcel of land, Version "B" differs from Version "W.A" in that, under Version "B", once the selected land is approved for nomination by the Commissioner, the Department has indicated that the land would be disposed of via a lottery or auction process rather than selling it to an individual.

Senator Dyson understood therefore, that the Department "would absolutely ignore this clear direction from the Statute."

Mr. Pound responded that the Department "will interpret it in a way that they wish to interpret it, which so far, it has been indicated to us that their interpretation is that they can put it into their

existing program which is a lottery or auction."

Senator Dyson surmised therefore, that the problem lies with the Department's interpretation of the language in Version "B" rather than with the language.

Mr. Pound replied that, during the bill's progression through the House, "a negotiated agreement" between the sponsor and the Division of Mining, Land and Water in the Department of Natural Resources had been reached regarding such things as the size of nominated parcels; the timeframe allowed for the survey and appraisal; buffer zone requirements; and the provisions providing the Commissioner the authority to make the determination regarding the land selection. He declared that the language in Section 4, subsection (f) of the Senate Resources committee substitute "has nothing to do with what was agreed to between this office and the Division. This was decided by a third member of the Division who, to my knowledge, at been advised to stay out of the process and decided to, when he came to Senate Resources, to get involved."

Representative Fate, responding to Senator Dyson's comment, stated that the Senate Resources Committee's adoption of the amendment that added Section 4, subsection (f) to the bill appeared to be "innocuous" in that it changed the application fee for a nomination from $100 to $25. He stated that upon questioning, it was explained that the fee was lowered because applicants have less chance of having their name drawn in a lottery process. Upon further investigation, he explained, it was discovered "that there was the assumption" within the Department that this program "would be melded into the present lottery program." He exclaimed that he "was really startled" that the addition of this amendment opened up the lottery interpretation by the Department, "and that was what they were going to do in fact." He reiterated that this direction was not the intent of the legislation.

Co-Chair Wilken asked the Department of Natural Resources to explain their interpretation of Section 4, subsection (f).

NANCY WELCH, Special Assistant, Office of the Commissioner, Department of Natural Resources, testified via teleconference from an offnet site in Anchorage, to explain that the amendment adopted by the Senate Resources Committee addressed the Department's on-going position of being "fundamentally opposed" to the right of an individual to nominate a parcel and then "perfect that into a sale through whatever means." Version "B" she continued, would allow the Department to accept land nominations that would then be melded into the Department's current land disposal lottery program. The cost of disposing land through the lottery program would be

substantially less than the land nomination program outlined in the House bill, Version "W.A" as it would require fewer personnel to operate. She reiterated, however, that the Version "B" proposal would not entail "individual processing."

Co-Chair Wilken asked the Administration's position regarding the Version "B" committee substitute.

Ms. Welch responded that the Administration supports the Version "B" committee substitute.

Co-Chair Wilken asked whether the Department had developed a position on the House bill, Version "X.A."

Ms. Welch responded that, while no official position had been developed regarding the House version of the bill, attempts were undertaken to move away from individual processing. She stated that the Department agreed to accept such issues as parcel sizes, buffer zones, and appraisal/survey language "against our better judgment," because the bill's sponsor had agreed to language allowing the Commissioner, at his discretion, the right to remove nominated parcels from consideration.

Senator Dyson questioned the reason for the Department not being supportive of the individual Alaskan land selection process, provided all criteria is met; particularly since the State "has such vast State holdings."

Ms. Welch replied that the Department is fundamentally opposed to the individual selection process as its position is that State "land should be offered to all Alaskans equally." She stated that the Department questions allowing a person to nominate land and to be given the first right to purchase it. She noted that this was the aspect opposed by the Senate Resources Committee as they questioned providing someone the first right to land that perhaps other people were also interested in or objected to being privatized, as it might, for example, be someone else's favorite hunting ground.

Senator Dyson, recalling that discussion, noted that "the flip side" to the Department's position is that someone might, after months of exploring perhaps by air or by foot, locate a remote piece of land that others had not demonstrated an interest in or had not utilized, go through the lengthy process of determining whether the land is acceptable for nomination, and then be told that all their efforts were for naught as the Department would allow that parcel of land to be disposed of via a lottery in which numerous people could participate.

Ms. Welch responded that, in the Department's experience, the vast majority of people who apply for staking authorization are able to receive that authorization; however, she noted that when people realize the difficulty of reaching and developing property, the staking rates drop. She acknowledged that while some parcels might draw no other interest and would, thereby, allow the applicant to stake the land, it would be unfair to allow one individual to have the advantage to a very popular parcel.

Amendment #1: This amendment would delete the words "in regulation" in Section 4, subsection (d) (1) in Version "X.A" on page three, line 14. This section currently reads as follows.

> (1) prepare a schedule of land offerings under this section and identify the parcels for disposal each year; the land offering may not include mineral land selected by the state or land identified by the department as having a high mineral potential; the department's identification of land having a high mineral potential shall be based on standards adopted by the department in regulation and shall include consideration of a geophysical survey or geological evaluation, if any, that was conducted within 15 calendar years before the year for which the schedule is prepared:

In addition, this amendment would delete Section 4, subsection (f) in Version "X.A" and replace it with the following language:

> (f) A resident may nominate a parcel for disposal under this section. The commissioner shall review the nomination and, if the nomination is accepted, will advertise the parcel for sale or lease. The commissioner shall accept bids for the parcel during a period not to exceed 45 days. At the end of the period for accepting bids, the resident nominating the parcel shall have the first right of refusal to purchase the land or apply for a lease under (b) of this section. After receiving a nomination under this subsection, the commissioner may provide for the sale or lease of additional parcels within the surrounding area or may find that the nominated parcel or area is not appropriate for disposal.

Co-Chair Wilken moved for the adoption of Amendment #1 and objected for discussion.

SENATOR SCOTT OGAN, Chair of the Senate Resources Committee, testified in opposition to the amendment. He stated that in his experience, individuals would "cherry pick some of the best land;" specifically popular hunting or fishing spots. While he agreed with

the bill's sponsor that more State land should be made available to its citizens, he stated that "this amendment is bad public policy" and that the compromised bill was good in that it allowed for a nomination process. Furthermore, he opined that the Senate Resources bill was good in that it would allow the Commissioner, at his discretion, to make available additional land around a nominated parcel. This, he attested would provide for good land management. This amendment, he declared, would require the Department to provide "a best interest finding for each individual parcel," thereby tying "up a lot of staff time." Therefore, he declared that allowing the Department to issue a best interest finding on a whole area would better serve the State. He exampled that, in this scenario, the Department could take into consideration the fact that an area had historically been utilized by a lot of people for hunting and fishing camps as opposed to limiting the review to an individual parcel within that area.

Senator Ogan stated that this issue "should be done right" and that the Senate Resources version of the bill strikes a good balance.

Co-Chair Wilken understood, therefore, that Senator Ogan, rather than objecting "to the land being claimed and owned", objects "to the manner through which this" would be done. Continuing, he voiced the understanding that the Senate Resources version of the bill would treat the land disposal as a lottery.

Senator Ogan disagreed. He stated that the Resources version of the bill specifies, in the aforementioned subsection (f), that this land nomination disposal program would be separate from the lottery program.

Co-Chair Wilken understood, however, that the Department of Natural Resources would interpret that section of the Senate Resources language, to provide them the authority to establish the program as a lottery.

Representative Fate reiterated that this is his understanding of the Department's interpretation of that section and that the testimony from Ms. Welch upheld that position.

Ms. Welch responded that subsection "f" would provide the Department the required authorization to process the land nomination through the Department's lottery program.

Co-Chair Wilken clarified, therefore, that while the Senate Resources Committee version of the bill would continue to support the land nomination process, it would allow the Department to conduct a lottery process as opposed to the House version of the

bill that would allow land to be nominated and claimed.

Senator Ogan concurred.

Co-Chair Wilken summarized that the method through which the land is disposed of is the issue.

Senator Dyson stated that it appears that the Department is putting "their own spin" on the interpretation of the Senate Resources bill language, and is "very close to the edge of defying what the Legislature, as the policy body, is saying." He declared this to be of "great concern".

Co-Chair Wilken understood Senator Dyson's comments to be that the language in Section 4, subsection (f) "doesn't say what we're hearing" from the Department of Natural Resources.

Senator Dyson affirmed.

Co-Chair Wilken stated that he shares that concern.

Senator B. Stevens recalled that, over time, the State has identified certain regions of the State as areas in which people could survey and stake a parcel of land and then negotiate a purchase agreement with the State. Continuing, he asked whether the Department would specify a region of the State to which this legislation would apply or whether this land selection proposal would apply to any State land holding.

Representative Fate responded that, while the Department has the authority to select areas for land disposal for such things as lotteries or auctions, there are not parameters currently in place that would allow people to go out and select parcels of land in areas that have not been identified.

Senator B. Stevens asked how the proposed program compares to the State's Homesteading program through which people go out and stake land in designated areas.

Representative Fate stated that this program would allow a person to identify, stake, and nominate a piece of land for a cabin as opposed to the Homestead program that identified areas in which people were allowed to live and develop a piece of land for a certain amount of time and then petition for title to it. He stated that the Senate Resources committee substitute would additionally allow the State to select an area surrounding a nominated parcel and allow it to become available through either their existing lottery/auction program or through the proposed program. He

characterized the proposed legislation as being "another tool in the toolbox" in that it would provide the Department, in addition to its lottery/auction program, another means through which people could acquire land.

Senator B. Stevens asked for confirmation that the Department would have the final determination as to whether or not a parcel of land could be nominated.

Representative Fate affirmed that the Department would have the ability to withdraw a parcel of land from being nominated based on best interest findings.

Senator Olson asked Senator Ogan whether he is comfortable with the decision-making opportunity provided to the Department by Amendment #1.

Senator Olson responded that he "is not always comfortable with bureaucratic decisions;" however, he stated that there are good professional people in the Department of Natural Resources. Continuing, he voiced being uncomfortable with the amendment's language that would provide an individual with the right of first refusal to purchase or buy the land. He pondered how the process would work.

Senator Olson voiced concern that Department of Natural Resources staffing changes, over time, might be an issue. In addition, he asked whether Native corporations have presented a position regarding this legislation.

Representative Fate responded that comment time has been provided during the hearing process. For further clarification, he noted that encumbered lands would not be included in this program.

Senator Dyson requested that the Department provide "language that would close the loophole by which they have slipped out of the intentions of both" the sponsor's and the Resource versions of the bill.

Co-Chair Wilken concurred.

Co-Chair Wilken moved to withdraw Amendment #1.

There being no objection, Amendment #1 was WITHDRAWN from consideration.

Representative Fate reiterated that the concern with the legislation lies with the Department's intent to change the

proposal into a lottery system.

Co-Chair Wilken asked the sponsor to work with the Department and others to further clarify the bill.

Co-Chair Wilken ordered the bill HELD in Committee for further consideration.

[NOTE: This bill was re-addressed later in the meeting.]

#hb495

> CS FOR HOUSE BILL NO. 495(FIN)
> "An Act allowing a joint action agency to encumber property interests for security purposes; declaring certain joint action agencies to be political subdivisions for certain purposes; restricting the sale of property of the joint action agency; allowing the joint action agency to transfer property to security interest holders under a security interest or to other parties without legislative approval; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken noted that CS HB 495(FIN), version 23-LS1681\I would allow the Four Dam Pool Power Agency (FDPPA) to refinance an approximate $73 million loan owed by the Alaska Industrial Development and Export Authority (AIDEA). He noted that this legislation is a companion bill to SB 350-4 DAM POOL JOINT ACTION AGENCY, which was previously heard by the Committee, and he noted that Senator B. Stevens has been investigating concerns raised during that bill's hearing in regards to FDPPA leases.

TIM BARRY, Staff to the bill's sponsor, Representative Bill Williams, stated that he is available to answer any questions pertaining to the bill or to the Sponsor's statement that is included in Members' packets.

Co-Chair Wilken surmised that the Committee understood the intent of the bill.

Senator B. Stevens recalled that during the Committee's hearing of SB 350, concerns were raised regarding the use of assets operated or leased by FDPPA, as opposed to assets owned by FDPPA, that were proposed to be utilized as security for bonds. The pertinent language in this regard, he noted, is located in Section 1,

subsection (c)(6), on page two, lines 17 through 20 in this bill that reads as follows.

> (6) to use facilities, projects, and related assets owned, leased, or operated by the joint action agency as security for bonds, notes, mortgages, credit enhancement devices, or other obligations.

Senator B. Stevens stated that, in response to those concerns, this bill's sponsor and members of the FDPPA have drafted compromise language.

Amendment #1: This amendment would amend Section 1, subsection (c)(6) on page two, beginning on line 17 to read as follows:

> (6) to use facilities, projects, and related assets owned, leased, or operated by the joint action agency as security in accordance with applicable law.

Senator B. Stevens moved to adopt Amendment #1.

Co-Chair Wilken objected for discussion. He asked whether AIDEA supports this amendment.

Senator B. Stevens responded that, in addition to AIDEA, bond councilors, and interested parties have reviewed and accepted the language of the amendment.

Co-Chair Wilken affirmed with TOM LOUAS, a member of the FDPPA who was in the audience, that the amendment was acceptable to him.

Co-Chair Wilken removed his objection.

There being no further objection, Amendment #1 was ADOPTED.

SFC 04 # 114, Side B 10:38 AM

Co-Chair Green moved to report the bill, as amended, from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, SCS CS HB 495(FIN) was REPORTED from Committee with zero fiscal note #1, dated March 1, 2004 from the Department of Community and Economic Development.

#hb338

CS FOR HOUSE BILL NO. 338(HES)
"An Act relating to attendance at public school; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken explained that were this legislation, CS HB 338(HES), Version 23-LS1258\U, adopted, the public school attendance policy requirement that a student be five years of age by August 15th would be changed to allow attendance by a child who turns five years of age by September first. In addition, he stated that the bill would allow early admittance for students younger than the required age upon approval by the superintendent.

RYAN MCKINSTER, Staff to Representative Lesil McGuire, the bill's sponsor, stated that this legislation was developed in response to a request by the Anchorage school district and constituents. He noted that the Anchorage School Board (ASB) is primarily interested in the section of the bill that would allow a school administrator to make a determination regarding early entry into kindergarten, as currently each request of this nature must be brought before the ASB. The proposed language, he noted would allow for swifter action, as the requests would be divvied amongst the various schools.

Mr. McKinster also noted that changing the age requirement deadline to September first would align Alaska with 25 other states. This change, he noted, would assist those families who move to the State, especially military families. He communicated that the current August 15th cutoff has prompted some families to move to another state and enroll their children in that state's school for a few weeks as, upon return to Alaska, that enrollment would qualify that student to attend an Alaska school. He noted that this act is costly and disruptive to families.

Mr. McKinster noted that an indeterminate fiscal note accompanies this legislation. He referred the Committee to a memorandum [copy on file] addressed to Representative McGuire from Larry Wiget, Executive Director, Public Affairs Committee of the Anchorage School Board, dated May 6, 2004 that expressed that, from the ASB perspective, there would be "no increased cost associated with the passage of this bill."

Mr. McKinster stressed that this legislation would not incur a monetary expense to a school district based on the premise, that whether an education is provided to a student one year or the next

year has no monetary consequence. He noted, however, that it would cost a family desiring an early admittance hearing approximately $500, as a private early education consultant is required.

Senator Bunde admitted to being "a little bit prejudiced" on this issue, as he is familiar with situations in which children are enrolled "far too early" in kindergarten in order for their family to avoid childcare expenses. He requested that kindergarten teachers weigh in on whether enrolling children early "is a good idea or not." He opined that enrolling children who are too immature for kindergarten could be a disservice to the child and is costly to the State in that there would be more beginning students and, he continued, oftentimes, those children might have to repeat a grade and would therefore be in the school system longer.

Co-Chair Wilken asked for confirmation that the time element issue in the bill is a two-week difference between what is currently in effect and what is proposed.

Mr. McKinster concurred that the legislation would delay the cutoff date by two weeks by changing it from August 15th to September first.

Senator Dyson acknowledged that due to the fact that 30 other states have a September first deadline, that date might be a better arbitrary date than the August 15th deadline. However, he agreed with Senator Bunde's comments regarding the negative aspects of enrolling a child too early, especially "when a parent objects to it." He questioned whether the early enrollment decision would be better served at the school board level or by an experienced administrator. He voiced that the issue of parents using the system as a babysitter is not a factor in this bill.

Co-Chair Green pointed out that Senator Dyson makes a good point in regard to having the early admission decision being changed from being a school board decision to being a school administrator decision. She asked whether this would be "a good thing."

Mr. McKinster stated that the Anchorage School Board and the Anchorage School District are on record in support of allowing school administrators, rather than the school board, to decide on whether a child should be granted early admittance, as the position is that school administrators have more experience in this area.

Co-Chair Green noted that no other school district in the State has weighed in on the legislation. She asked whether the changes are procedural.

Senator Dyson characterized the changes to be permissive as the language includes the word "may."

Co-Chair Wilken pointed out that language in Section 2, page one, line 14 of the bill specifies that the school board "may delegate the authority granted to the chief administrator."

Mr. McKinster informed the Committee that both the City and Borough of Juneau and the Fairbanks North Star Borough school districts support the legislation.

Senator B. Stevens declared a conflict in that a school administrator granted his five-year-old child early admission to kindergarten.

Senator Bunde commented that while the timeframe in question is only a two-week difference, that time to the maturity level of a five-year-old child is significant. He voiced support for allowing children to mature a bit more before they are faced with the challenge of being in public schools. Therefore he does not support the date change language.

Senator Dyson moved to report the bill from Committee with individual recommendations and accompanying fiscal note.

Senator Bunde objected.

A roll call was taken on the motion.

IN FAVOR: Senator B. Stevens, Senator Olson, Senator Dyson, Co-Chair Green, and Co-Chair Wilken

OPPOSED: Senator Bunde

ABSENT: Senator Hoffman

The motion PASSED (5-1-1)

CS HB 338(HES) was reported from Committee with indeterminate fiscal note #1 Corrected, dated February 17, 2004 from the Department of Education and Early Development.

#hb341

HOUSE BILL NO. 341
"An Act relating to the dive fishery management assessment."

This was the second hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated that this legislation would "finalize a compromise between Alaska shellfish growers and commercial fisherman and resolves a long-standing controversy about geoduck clams on aquatic farm sites." He reminded the Committee that a Constitutional question arose regarding language in the committee substitute, Version 23-LS1280\I that was adopted during the May 8, 2004 hearing on this bill.

TIM BARRY, Staff to Representative Bill Williams, the bill's sponsor, explained to the Committee that the original bill that was transmitted from the House of Representatives to the Senate contained a technical change to State statute regarding how "the dive fishery association assesses itself for management of the dive fishery."

Co-Chair Wilken suggested that rescinding Committee action on the adoption of the Senate Finance committee substitute might be the most appropriate course of action with which to deal with the Constitutional issues raised in the memorandum [copy on file], dated May 4, 2004, and addressed to the bill's sponsor from George Utermohle, Legislative Counsel, Division of Legal and Research Services.

Mr. Barry communicated that the sponsor would desire that the original House bill, Version 23-LS1280\A, be furthered.

Co-Chair Wilken asked Mr. Barry to explain the issues addressed in Mr. Utermohle's 12-page memorandum.

Mr. Barry stated that the Constitutional issue regards to what extent shellfish farmers could harvest wild geoduck stock on leased State aquatic sites in Southeast Alaska. He explained that a State Superior Court ruling specified that, based on the State's Constitution, a shellfish farmer would be allowed to harvest "an insignificant amount of clams." The Superior Court decision, he continued, was appealed to the State Supreme Court which decided, based on statutory grounds rather than on Constitutional grounds, that shellfish farmers could not harvest substantial amount of wild geoducks on a site.

Mr. Barry stated that, at a recent meeting, geoduck divers, shellfish farmers, the Department of Fish and Game, the Department of Law, and others met and developed language that addressed both the statutory and Constitutional concerns addressed by the Courts. This language, he continued, is included in the Senate Finance

committee substitute adopted by this Committee. He stated that these groups "are confident" that were the constitutionality of this language challenged at the Superior Court level, "the language was meet the question as addressed by the Superior Court."

Mr. Barry informed that the concern raised in Mr. Utermohle's memorandum is that it is unknown how a challenge at the Supreme Court level would fare, as statutory not Constitutional issues were addressed in that Court. He concluded that while the concerned parties believe that the language would meet the Constitutional issue addressed by the Superior Court, the view of these issues at the Supreme Court level is "an unanswered question."

Co-Chair Wilken stated that the question is whether to advance the original House version of the bill or the Version "I" bill to which has Constitutional concerns have been raised.

Mr. Barry reiterated that the bill's sponsor favors advancement of the original version of the bill. He stated that "no questions of any sort" arose regarding the original House bill as it proceeded through House hearings and the floor process.

Co-Chair Wilken clarified therefore, that the Court issues involve actions taken by the Senate.

Mr. Barry concurred. In response to a question from Co-Chair Wilken, he responded that the bill passed the House by a vote of 39 ayes to one nay, and that "very minimal" discussion had occurred.

Senator Dyson made a motion to rescind the May 8, 2004 Committee action adopting the Finance committee substitute, Version 23-LS1280\I.

There being no objection, the action of adopting the Version "I" committee substitute was RESCINDED.

Co-Chair Wilken stated that HB 341, Version 23-LS1280\A is now before the Committee.

Mr. Barry informed the Committee that the Southeast Alaska Regional Dive Fisheries Association was created in 1998 and consists of dive fishermen, communities in Southeast Alaska, and processors. Continuing, he noted that the Association, though assessing its members at a rate of one, three, five, or seven-percent as specified in State statute, pays for management of the fishery. He stated that HB 341 would change statute to provide the Association "more flexibility to fund the process" by expanding the options to include two, four, or six percent assessments.

Senator Olson asked whether other aquiculture operations outside of Southeast Alaska have weighed in on this legislation.

Mr. Barry voiced that no concern from other areas have been expressed.

PAUL FUHS, Representative, Alaska Trademark Shellfish Industry, expressed disappointment in not testifying before the Committee rescinded its action on Version "I" as, he recounted, the Court had heard regarding the Constitutional issues and that there should be "some comfort in the fact that they didn't rule on it." He stated that it is inevitable that there would be some wild stock on a leased aquatic farm site for, he continued, if no wild stock existed there, "it is bad habitat." Therefore, he stated that in order for the shellfish industry to grow, the issue of wild stock must be addressed. He opined that, prior to this Court case, the Department of Fish and Game had adequate measures in place to address the harvesting of wild stock on these sites. He stated that the Court's addressing of statutory rather than Constitutionality issues lends support to adopting the committee substitute. He stated that no action in this regard would hurt the industry.

Co-Chair Wilken asked whether this bill had had other Senate committee hearings prior to being referred to Senate Finance.

Mr. Barry informed that the bill had been heard by the Senate Labor & Commerce (L&C) Committee.

Co-Chair Wilken asked whether the Senate L&C Committee had reviewed any of the Constitutional issues that have been raised. In addition, he opined that the bill should have been referred to the Senate Judiciary Committee where Mr. Utermohle's memorandum could have been "dissected" and addressed.

Co-Chair Wilken commented that action on this bill is limited due to the impending end of this Legislative Session, and that he expected that the bill would be re-introduced the next Legislative session in order to give it "proper consideration." He reiterated that another Senate committee referral should transpire in order to "properly" address all the issues.

Mr. Fuhs commented that all the various components of the bill had been addressed by the Department of Natural Resources and other interested parties, and that the committee hearing delay was a result of the timing of the recent Supreme Court ruling.

Co-Chair Wilken pointed out that the Committee's options would

include reporting out the original bill, HB 341, Version 23-LS1280\A, or reporting out the Version "I" committee substitute with a referral to the Judiciary Committee.

Mr. Berry responded that, of those options, the bill's sponsor would support reporting Version "A" from Committee.

Senator Olson asked the Alaska Trademark Shellfish Industry position regarding these options.

Mr. Fuhs voiced support for furthering Version "A," as he stated, "there is no problem with it at all."

Co-Chair Green moved to report the original bill, HB 341, Version 23-LS1280\A, from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, HB 341 was REPORTED from Committee, accompanied by zero fiscal note #1, from the Department of Revenue dated February 1, 2004.

RECESS TO THE CALL OF THE CHAIR 11:03 AM / 7:08 PM

#hb319

> SENATE CS FOR CS FOR HOUSE BILL NO. 319(RES)
> "An Act relating to the disposal of state land by lottery; relating to the reservation of rights by the state in land contracts and deeds; relating to the disposal, including sale or lease, of remote recreational cabin sites; and providing for an effective date."

[NOTE: This bill was heard earlier in the meeting.]

JIM POUND, Staff to Representative Bud Fate, stated that, following the morning hearing on the bill, discussions ensued between the sponsor and Commissioner Tom Irwin of the Department of Natural Resources. As a result, he continued, language was developed that one: meets the sponsor's intent for the bill; and two: has the approval of the Department.

[NOTE: Amendment #2 was not offered for consideration.]

Amendment #3: This amendment amends language in Section 4, subsection (f), on page three, beginning on line 24 to read as follows:

(f) a resident may nominate a parcel or area for disposal under this section, and, if the resident has not leased or purchased land under this section during the three-year period preceding the date of nomination, may apply for a right to stake the nominated parcel with the intent to lease under (b) of this section. The commissioner shall review the nomination and may

(1) offer {THE NOMINATED] the right to stake a parcel for lease through a sealed-bid or outcry auction and subsequently purchase the parcel for fair market value;

(2) offer the parcel and additional parcels within the surrounding area for sale in a simultaneous filing period in the manner provided for lottery parcels by AS 38.05.057; [OR]

(3) offer already surveyed and platted parcels for sale at a sealed-bid or outcry auction as provided under AS 38.05.055; or

(4) find that the parcel or area is not appropriate for disposal.

Co-Chair Wilken moved to adopt Amendment #3 and objected for explanation.

Mr. Pound explained that this amendment addresses several sponsor and Department of Natural Resources concerns including: the process pertaining to how an individual nominating a parcel would be recognized in the process; the length of time required between an individual's ability to stake additional parcels; clarification of the staking language pertaining to the leasing/purchasing provision; and language providing the Commissioner of the Department of Natural Resources the ability to offer for disposal land surrounding a nominated parcel or to deny a nominated parcel for disposal.

Co-Chair Wilken asked for further clarification regarding how a person would nominate land.

Mr. Pound responded that a person would locate a parcel of land and file for the right to stake that particular parcel with the Department of Natural Resources.

Co-Chair Wilken understood that this would entail a written request for the right to stake the land. In other words, he continued, the individual is requesting the right to lease and eventually purchase that parcel of land.

Mr. Pound responded that the request would entitle someone to a five-year lease with a five-year renewal option. He noted that "at

any time you have a lease, you have the right to purchase."

Co-Chair Wilken asked the sequence of events that would occur after the land has been staked; specifically whether a sealed bid or outcry auction would occur.

Mr. Pound stated that, were another individual to express interest in a parcel of land to which a right to stake has been filed, a bidding process would be implemented.

Co-Chair Wilken asked how public notification regarding the staking request would occur.

Mr. Pound explained that a public notice process would be implemented.

Co-Chair Wilken asked for confirmation that, were more than one person interested in a parcel of land, the Commissioner would determine whether a sealed bid or outcry auction would occur.

Mr. Pound affirmed.

Co-Chair Wilken understood that the land's purchase price would be based on fair market value.

Mr. Pound concurred.

Senator Bunde asked regarding language pertaining to someone being able to stake a parcel of land every three years; specifically whether this would entail relinquishing a parcel of land previously received through this program.

Mr. Pound responded that another parcel of land, in addition to previously received parcels, could be staked at three-year intervals.

Senator Bunde opined that "there is a limited amount" of desirable land available for remote cabin sites. Continuing, he voiced concern that the provision allowing individuals to acquire numerous parcels of land could result in "land barons."

Co-Chair Wilken asked whether Senator Bunde wished to propose an amendment to address this concern.

Senator Bunde responded that two options exist to address this concern: one being that were a person to desire to stake another parcel of land any previous land they had acquired in this manner must be relinquished; or two, a longer timeframe between land

nominations could be required. He reiterated his concern that, even though the State has vast land holdings, suitable land with such things as a water source and accessibility is limited and that one individual might" tie that up."

Senator Bunde suggested that the timeframe between nominations be increased to between six and ten years.

Senator Dyson opined that, over time, the people who receive these lands would probably develop and perhaps sell their land to others. He voiced that this would be beneficial, as it would open up more sites to others. Furthermore, he stated that the expenses involved with surveying and developing land might be a deterrent to the land baron issue. Therefore, he commented that he does not share Senator Bunde's concern "that this would be abused."

Senator Bunde stated that this legislation could also lead to frustration in that someone might desire to access a particular valley and find it staked or that the person who staked the valley might be upset to have another person trespassing on their land.

Amendment-to-Amendment #3: This amendment proposes to change language in subsection (f) in that the length of time required before an individual could stake another parcel of land be increased from three-years to five-years.

Senator Bunde moved to adopt the Amendment-to-Amendment #3.

Co-Chair Wilken objected for discussion.

Senator Olson agreed that the amount of desirable land with suitable water and other amenities is limited. He also supported Senator Bunde's concern regarding the potential for a "land baron" scenario.

Senator B. Stevens voiced the understanding that a person would be responsible for staking the land and having it surveyed, before purchasing it.

Mr. Pound concurred.

Senator B. Stevens commented, "that the value of the land is only intrinsic to the person who wants to go pay and go out there and stake it and survey it." He stated that the market value of the land is probably less than the cost of the survey. Therefore, he voiced being opposed to the amendment-to-Amendment #3, as he opined that the amount of State land that is available now and not bought is indicative of the fact that not a lot of people would be

clambering to pursue this land acquisition proposal.

Co-Chair Green inquired as to whether other State land disbursement programs have look-back provisions or limiting factors.

NANCY WELCH, Special Assistant, Office of the Commissioner, Department of Natural Resources testified via teleconference from an offnet site in Anchorage and informed the Committee that the Homestead program has a minimum five-year limiting provision. She clarified that this legislation's three-year timeframe specification applies to the nomination process rather than to the acquisition.

Co-Chair Green clarified that the three-year time limitation refers to the right to stake rather than the purchase.

Ms. Welch specified that the three-year time frame would apply to an individual's "right to nominate a parcel and if they actually not required one in three years then they can apply for a right to stake the nominated parcel." Therefore, she summarized, "it only applies to the provision of applying for a right to stake the nominated parcel; it doesn't apply if the person just wanted to participate in any land sale program other than this special provision for staking a special parcel."

Representative Fate voiced no objection to the amendment to Amendment #3, as he recounted this provision had, at one time, specified a five-year timeframe. He stated that the reason for reducing the timeframe to three years was to allow more land to be sold.

A roll call was taken on the motion.

IN FAVOR: Senator Olson, Senator Bunde, and Co-Chair Wilken

OPPOSED: Senator Dyson, Senator B. Stevens, and Co-Chair Green

ABSENT: Senator Hoffman

The motion FAILED (3-3-1)

The Amendment-to-Amendment #3 FAILED to be adopted.

Amendment #3 was again before the Committee.

Mr. Pound reiterated that Amendment #3 would allow the Commissioner of the Department of Natural Resources to offer additional parcels surrounding a nominated parcel. He also noted that were an

individual to nominate a parcel and then decide not to stake it, the amendment would allow the Commissioner to offer that parcel for disposal through other land disposal programs. In addition, he noted that were already surveyed and platted lands not purchased, this amendment would allow those lands to be made available through a sealed bid or outcry auction.

Co-Chair Wilken removed his objection to Amendment #3.

There being no further objection, Amendment #3 was ADOPTED.

Conceptual Amendment #4: This amendment specifies that the provisions of this legislation would terminate in ten years.

Co-Chair Wilken moved to adopt Amendment #4. He stated that due to the fact that this bill is "plowing new ground" and has encountered some controversy, it would be advantageous to review the outcome of the bill at a later time.

Representative Fate stated that a ten-year time frame would be acceptable. He noted that, as reflected in the accompanying fiscal note, the State would not begin to realize the benefits of the legislation for at least five years.

There being no objection, Amendment #4 was ADOPTED.

Co-Chair Wilken asked whether the adopted amendments would alter the bill's fiscal notes.

Mr. Pound stated that the fiscal note that accompanied the Senate Resources version of the bill would not be affected by the changes.

Senator Bunde moved to report the bill, as amended, from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, SCS CS HB 319(FIN) was REPORTED from Committee with zero fiscal note #4, dated May 8, 2004 from the Division of Oil & Gas, Department of Natural Resources and $69,000 fiscal note #5, dated May 8, 2004 from the Division of Mining, Land and Water, Department of Natural Resources.

#hb461

CS FOR HOUSE BILL NO. 461(STA) am
"An Act relating to enhanced 911 surcharges and to 911 and emergency services dispatch systems."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated that this bill, CS HB 461(STA), Version 23-LS1633\E.A would allow "a local municipality, by ordinance to raise the surcharge and eliminate the current surcharge limit on telephone users for 911 emergency services. He noted that several fiscal notes accompany the legislation.

MATT RUDIG, Staff to the bill's sponsor Representative Jim Holm, noted that this bill would: maintain public safety; increase local control; and implement 911 service in rural Alaska. He stated that changing current statutes would provide municipalities "the flexibility to charge what they need to charge to recover the costs" of Enhanced 911 emergency service, dispatches, and surcharges. He noted that there is "little debate" as to the necessity of this service, which is provided nationwide to assist in saving lives.

Mr. Rudig explained that, currently, municipalities, with the exception of Anchorage which is limited to a 50-cent surcharge, are limited to charging a maximum 75-cent surcharge per month to telephone users to assist in funding a municipality's Enhanced 911 system. He clarified that the funds generated by this surcharge would be limited to providing for equipment costs and do not provide for any operational costs associated with the program. This bill, he advised, would allow municipalities to charge a single surcharge per phone line to provide funds for both the system and operational expenses including dispatch operations.

Mr. Rudig stated that the current surcharge level has forced municipalities "to shift the burden of the cost directly onto property owners" through property taxation rather than spreading the assessment "to the actual users who demand the service."

Mr. Rudig commented that while there has been some concern regarding the fact that the bill does not include a maximum level of which municipalities could charge, the bill clearly states that a municipality could not use the funds generated from the "surcharge for anything but the emergency services system or dispatch."

SFC 04 # 115, Side A 07:32 PM

Mr. Rudig continued that provisions of the bill specify that on an annual basis, a review and voter concurrence of the surcharge rate

must be conducted, as specified in Section 4(a) on page four, lines 14 through 19 of the bill. He stated, therefore, that the amount of the surcharge would be governed by State statute and by local voter approval. Thus, he attested, the local governing body would not be able to institute an excessive surcharge fee. Furthermore, he noted that the State statute would allow the surcharge to be changed solely by ordinance as opposed to current language that requires both a resolution and an ordinance. In conclusion, he stated that because this legislation allows the proposed methodology to be optional, municipalities could choose to continue their current surcharge taxation method.

REPRESENTATIVE JIM HOLM, the bill's sponsor, acknowledged the efforts exerted by Mr. Rudig in developing this legislation. Continuing, he pointed out that the comparison chart, titled "E-911 Dispatch Center Revenue and Costs Summary" [copy on file], prepared by Tim Rogers of the Alaska Municipal League substantiates the need for this legislation as it depicts that the operating costs associated with the Anchorage Call and Dispatch Centers amount to $7,652,280 as compared to the corresponding revenue of $2,066,944 currently generated by the City's 50-cent surcharge on 344,491 phone lines and cell phones. Continuing, he noted that the City of Fairbanks' Call and Dispatch Centers' operating costs amount to $4,680,000 with $436,293 of that being supported by the City's 65-cent surcharge. He opined that the people of a municipality, rather than the State, should establish a limitation on the surcharge, as they are the users of the service.

Representative Holm calculated that in order to sufficiently collect funds to offset the total cost of providing the Enhanced 911 system in their community, a surcharge of $45 per month per line would be required. To that point, he understood that the City of Fairbanks has specified an upper surcharge limit of no more than three dollars per line and that the City of Anchorage is considering a surcharge fee of approximately $1.50 per line.

Representative Holm noted that the Kenai Peninsula Borough currently has a 911 System shortfall of $1,819,328 and the City and Borough of Juneau has a shortfall of $1,094,544.

Representative Holm pointed out that each area would be required to have a separate cost analysis conducted, as, he contended, one fee would not align with all communities' needs.

Senator Bunde asked for further confirmation that the level of the surcharge would be authorized by a vote of the people, as he noted that this action is not specifically addressed in Section 4(a) of the bill.

Mr. Rudig responded that the intent of the bill is to specify that any change to the surcharge would be by local ordinance.

Senator Bunde declared that changing the surcharge level by ordinance is different that changing it by a vote of the people. He expressed, therefore, that the citizens of a municipality must be confident that their local governing body would act responsibly when addressing this issue via local ordinance.

Co-Chair Wilken asked whether both the surcharge review and the adoption of the corresponding ordinance must occur annually.

Mr. Rudig clarified that he had misspoken in this regard as a municipality's obligation regarding ordinance action is not specified in the bill.

Co-Chair Wilken understood therefore that while an annual audit must be conducted, annual ordinance action would not be required.

Representative Holm surmised that most municipalities conduct their budget process in a similar manner and therefore, concluded, that the E-911 system would be a budgetary line item. Therefore, he concluded that as such it would be reviewed on an annual basis by the municipality.

Co-Chair Wilken understood earlier testimony to specify that an annual audit of the E-911 System must be conducted.

Senator Bunde pointed out that this language is included in the bill in Section 4(a) on page four, lines 14 through 21.

Co-Chair Wilken asked the sponsor to discuss this language; specifically in regards to which E-911 System expenses, as required by State law, would benefit from the surcharge.

Representative Holm stated that language in Section 4(a) on page four beginning on line 18 specifies that the surcharge could provide "for the actual labor and equipment used to provide the emergency services dispatch." He stated that this language does not provide for "anything extra" or allow a municipality "to charge more than the service costs." Therefore, he declared, "this is the upper cap." He noted; however, that the language does not limit a municipality's ability to, as an example, charge property owners a tax to assist in covering the costs of the service. He reiterated that this legislation would allow municipalities to charge those who have phone lines in the community a per line surcharge.

Co-Chair Wilken understood that the audit would be a local municipality function and that the local governing body would make the determination regarding the level of the local surcharge. He voiced that, absent a specified surcharge ceiling, language should be included to prohibit the local assembly from using the surcharge as a means through which to raise money.

Representative Holm reiterated that an upper limit is dictated in the bill by the aforementioned Section 4(a) that specifies exactly what costs could be recouped by the surcharge: these being the exact labor and costs associated with providing the service. He opined that it would be inappropriate to specify a ceiling in the bill as the cost of providing the service varies by community.

AT EASE 7:43 PM / 7:43 PM

Co-Chair Green observed that the bill's language does not address matters regarding such things as duplication of services, efficiency, or competitive services, or "the breath of the service" that might be offered. Continuing, she voiced concern that, while a municipality would set the surcharge rate, the collection of that surcharge and any corresponding negative reactions from telephone line users would fall upon the shoulders of the local utility. She noted that while the utility has no say in the "open-ended" surcharge rate, the utility would receive the angry phone calls. In summary, she agreed with Co-Chair Wilken that a surcharge ceiling should be included in the legislation.

Co-Chair Wilken understood that, while cell phones are not currently assessed an E-911 fee, this legislation would apply to them.

Mr. Rudig affirmed that cell phones would be assessed the surcharge.

Co-Chair Wilken asked, using the City of Fairbanks as an example, whether someone living outside of the city limits would be required to pay the E-911 surcharge.

Representative Holm explained that every phone and cell phone in an E-911 service area would be required to pay the surcharge. He reiterated that currently, while every phone line is charged a surcharge, the revenue generated does not offset the cost of the service. In response to a question from Co-Chair Wilken, he noted that most of the Fairbanks North Star Borough is located within an E-911 service area and would therefore pay the surcharge.

Co-Chair Wilken understood that the money raised by this

legislation would increase, as cell phones would now be subject to the surcharge.

Senator Bunde commented that consideration might be given to establishing a universal 911 service charge for someone who lives outside of a service area, but who receives 911 assistance through a local or long-distance call. In addition, he expanded on Co-Chair Green's concern that absent any "checks and balances" regarding the level of 911 service a utility might install, "a Cadillac" 911 enhanced service system might be implemented in an area when the community "only wants a Ford." This situation, he attested, would serve to increase the surcharge level required to pay for the system or would allow the utility to influence the rate. He noted that such things as 911 fees and universal service fees draw less public scrutiny than those aroused by such things as an increase in one's property tax assessment, which is currently the common method of collecting the 911 surcharge. Therefore, he stressed that the checks and balances portion of the bill should be further addressed.

Senator Olson opined that the rationale against establishing a surcharge limit in the bill is not convincing.

Representative Holm responded that the bill is necessary as demonstrated by the fact that a small number of property owners in Fairbanks are annually paying in excess of $4.2 million in property taxes to support E-911 service for all the people in that area. He characterized this as being "inappropriate."

Senator Olson asked how this legislation would affect people in rural areas of the State.

Mr. Rudig responded that, to address this concern, language located in Section 10, on page six, lines eight through 14 of the bill was incorporated during its passage through the House.

> Sec. 10. AS 42.05 is amended by adding a new section to read:
> Sec. 42.05.295. Routing 911 calls. Notwithstanding AS 42.05.711, to ensure statewide access by all residents to 911 wireline services, traditional or enhanced, each local exchange telephone company that provides wireline service to an area outside a municipality must route 911 calls originating from within its customer service base through a toll free number to a regional public safety answering point identified by the state. In this section, " municipality" has the meaning given in AS 29.35.137.

Mr. Rudig explained that this language would specify that a toll

free 911 number that would ring to a specified answering point "would be available throughout all of Alaska."

Senator Olson stated that his primary concern is to whom the financial responsible for this service would fall; specifically whether it would be reflected on rural residents' phone bills.

Mr. Rudig clarified that a municipality must have an established E-911 service in order to implement a surcharge; therefore, he continued, most rural areas would be exempt from a fee.

Senator Olson understood therefore that the bill would have no financial affect on rural citizens.

Mr. Rudig expressed that this would be the case. Furthermore, he stated that while a community such as Bethel or Barrow might consider implementing an E-911 system in their municipality, the fact, as attested by the experiences of the cities of Fairbanks and Anchorage, that there is "no way to recover the cost" of the service would be a deterrent.

Senator Olson concluded that this legislation would not financially affect rural residents.

Co-Chair Wilken stated that the surcharges imposed by this legislation would be limited to those areas having an E-911 system.

Representative Holm expressed that this legislation would not impose a surcharge on rural residents.

Senator Olson acknowledged that this legislation would not affect rural residents.

Co-Chair Wilken clarified that cell phone users in a place such as Barrow could be charged a 911 surcharge were their city to incorporate an Enhanced 911 system in their community.

Senator Bunde stated that, currently, there are a multitude of areas, remote or otherwise, where people, when calling 911 would get an operator. He voiced that a Universal Service fee provides for the cost of providing this service on a Statewide basis; however, he clarified that the Enhanced 911 Service fee is a separate and local option issue.

Co-Chair Green asked for clarification regarding the sponsor's remarks about the availability of 911 calls throughout the State.

Mr. Rudig responded that, currently, in some parts of the State,

calling 911 is a long distance call and is often answered by a recording. He noted that, as per Section 10 in this bill, 911 calls from throughout the State would be toll free and would be answered by a 911 call center. He stated that this provision would be limited to standard 911 services rather than Enhanced 911 service.

Co-Chair Green asked for further information about the funding for this service.

Representative Holm responded that, while he is unsure of the funding mechanism, federal law mandates statewide 911 service. He stated that within the State today, there is "a point of contention" regarding whether all telephone utilities were compliant with this order. He stated that language in Section 10 would align the State with federal law.

Representative Holm commented that the Department of Public Safety is responsible for routing these calls. He exampled that were he near the community of North Way while driving en-route from Fairbanks to Juneau and used his cell phone to call 911 for assistance, his 911 call would be routed to the Department of Public Safety in Fairbanks who would, in turn, send assistance from North Way.

Representative Holm noted that various regions of the State have different response systems and that some Enhanced 911 areas utilize Global Positioning Satellites (GPS) to assist in locating those in need. He declared that having a cell phone on your person is beneficial as it could be "a life-saving device."

Amendment #1: This amendment deletes " may be imposed" and replaces it with "may not exceed $1" following "surcharge" in Section 4(a) on page four, line three. This language would read as follows.

> The [FOR A MUNICPALITY WITH A POPULATION OF 100,000 OR MORE, AN} enhanced 911 surcharge may not exceed $1 [MAY NOT EXCEED 50 CENTS PER] month for each wireless telephone number, or for wireline telephones, each [50 CENTS PER] month for each local exchange billing statement for a residential customer or for each access line for a commercial customer [FOR WIRELINE TELEPHONES. FOR A MUNICIPALITY WITH FEWER THAN 100,000 PEOPLE, AN ENCHANCED 911 SURCHARGE MAY NOT EXCEED 75 CENTS PER MONTH FOR EACH WIRLESS TELEPHONE NUMBER OR 75 CENTS PER MONTH FOR EACH LOCAL EXCHANGE ACCESS LINE FOR WIRELINE TELEPHONES].
>
> New Text Underlined [BRACKETED TEXT DELETED]

In addition, this amendment deletes all material in Section 4(a)

beginning on page four, line 18 through line 21, following the word "system". This language currently reads as follows.

> The municipality may [ONLY] use the enhanced 911 surcharge for the enhanced 911 system and for the actual labor and equipment used to provide emergency services dispatch, but not for costs of providing the medical, police, fire, rescue, or other emergency service, or for any other purpose.

Co-Chair Green moved to adopt Amendment #1

Co-Chair Wilken objected for discussion.

Co-Chair Green explained that this amendment would limit a municipality's monthly E-911 surcharge to no more than one-dollar and would delete language in the bill that would allow the municipality to utilize these funds for labor and emergency medical dispatch, as she opined that someone would allot these surcharge funds to expenses beyond the cost of the system itself. She recalled that the original intent of implementing the surcharge was to offset the cost of the system. In summary, she voiced being opposed to the lack of a limit being placed on the surcharge as the cost might be inflated to provide for an elaborate operation as well, She also voiced concern regarding the fact that no definition of what the funds could be used for is included in the bill. In addition, she expressed concern regarding the apparent "discrepancy" in the costs of providing Enhanced 911 services as depicted in the aforementioned comparison costs for the cities of Fairbanks, Anchorage, Kenai and Juneau, as she stated, that were the systems similar, the revenues and expenses would be more comparable based on population."

Senator Dyson asked Co-Chair Green for further information regarding the reason to delete language pertaining to medical, police, fire, and rescue, as the bill specifies that these items should not be included in the costs.

Co-Chair Green responded that the bill should address the hard costs of the system itself rather than such things as personnel.

Senator Dyson, Co-Chair Wilken, and Co-Chair Green discussed reworking the amendment to qualify that it be limited to providing funding for the equipment rather than for personnel and other costs.

Senator Bunde spoke in favor of retaining the Amendment as presented.

Co-Chair Wilken asked that, before further action is taken on the amendment, that the bill's sponsor meet with Committee staff to develop language to address Committee concerns.

Senator B. Stevens voiced that defining the meaning of "emergency services dispatch system" would assist in clarifying the elements of the service. He also pointed out that language in Section 4 on page four, lines six and seven is confusing in regards to wireless phone surcharges.

Co-Chair Wilken summarized that the concerns requiring further discussion include: whether a surcharge limit should be implemented; further defining the enhanced 911 system; and addressing the wireless surcharge language on page four, lines six and seven.

Senator Dyson voiced that he is "not a fan" of establishing limits on what should be charged.

Co-Chair Wilken understood that Co-Chair Green is in favor of establishing a surcharge limit.

Senator Bunde also voiced support for the establishment of a surcharge limit as he declared that he does not have confidence in municipalities. He noted that while the bill specifies that an annual audit of the surcharge must be conducted, the bill does not clarify who would have access to those findings. Therefore, he asked that language pertaining to the disclosure of the findings be included.

Co-Chair Green offered a motion to withdraw Amendment #1.

There being no objection, the motion was WITHDRAWN.

Co-Chair Green stated that public utilities "get the black eye." Therefore, she stressed that a municipality establishing the surcharge should conduct a campaign clarifying that the municipality rather than the utility is responsible for the forthcoming rate change.

Co-Chair Wilken ordered the bill HELD in Committee for further review.

RECESS TO THE CALL OF THE CHAIR 8:14 PM / 12:14 AM

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ADJOURNMENT

Co-Chair Gary Wilken adjourned the meeting at 12:15 AM, Tuesday, May 11, 2004.